

(2) When DOE determines that a recipient's accounting system does not meet the standards in § 600.121, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. DOE, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) Contracting officers are encouraged to shade out any line item on any report if not necessary.

(4) DOE may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) Computer or electronic outputs may be provided to recipients when that expedites or contributes to the accuracy of reporting.

**§ 600.153 Retention and access requirements for records.**

(a) This section sets forth requirements for record retention and access to records for awards to recipients. DOE shall not impose any other record retention or access requirements upon recipients, unless such requirements are established in program regulations.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by DOE. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by DOE, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, and related records, for which retention requirements are specified in § 600.153(g).

(c) Copies of original records may be substituted for the original records if authorized by DOE.

(d) DOE shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, DOE may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) DOE, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, DOE shall place no restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOE can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to DOE.

(g) Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

## Department of Energy

## § 600.162

(1) *If submitted for negotiation.* If the recipient submits to the Federal agency responsible for negotiating the recipient's indirect cost rate or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the recipient is not required to submit to the cognizant Federal agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(h) If, by the terms and conditions of the award, the recipient or subrecipient—

(1) Is accountable for program income earned or received after the end of the project period or after the termination of an award or subaward, or

(2) If program income earned during the project period is required to be applied to costs incurred after the end of the project period or after termination of an award or subaward, the record retention period shall start on the last day of the recipient's or subrecipient's fiscal year in which such income was earned or received or such costs were incurred. All other program income records shall be retained in accordance with § 600.153(b).

### *Termination and Enforcement*

#### **§ 600.160 Purpose of termination and enforcement.**

Sections 600.161 and 600.162 set forth uniform suspension, termination and enforcement procedures.

#### **§ 600.161 Termination.**

(a) Awards may be terminated in whole or in part only if paragraph (a) (1), (2) or (3) of this section apply.

(1) By DOE, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By DOE with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to DOE written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if DOE determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, it may terminate the award in its entirety under either paragraph (a) (1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 600.171(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

#### **§ 600.162 Enforcement.**

(a) Remedies for noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, DOE may, in addition to imposing any of the special conditions outlined in § 600.114, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by DOE.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) Hearings and appeals. In taking an enforcement action, DOE shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient